Appl. No. 09/894,854
Amdt. dated February 22, 2005
Reply to Office Action of December 2, 2004

PATENT

REMARKS/ARGUMENTS

This Amendment is in response to the Office Action of December 2, 2004, in which the Examiner rejected claims 1-5, 7, 10-17 and 19 under 35 U.S.C. 102(e) as anticipated by U.S. Patent Publication No. US2001/0007821 ("**Ricard**"). The Examiner also provisionally rejected all the pending claims 1-21 on the basis of obviousness-type double patenting as unpatentable over co-pending Application No. 10/313846. The Examiner indicated that claims 6, 8, 9, 18, 20 and 21were allowable, but objected to those claims as each being dependent on a rejected base claim.

Applicants respectfully traverses the Examiner's rejection of the claims. Applicants believe the claimed subject matter in all pending claims is distinguishable over **Ricard** for the reasons stated below, and requests reconsideration. Applicants have amended claims 1 and 10 in order to clarify the subject matter and for consistency with other independent claims.

Applicants' invention, as stated in the previous Amendment and as exemplified in claim 1, relates to a method for acquiring and managing communication modes for maximizing the performance of mobile subscriber units in a **single** wireless network, where the subscriber units operate in both a static state and a mobile state within that single network. In particular, Applicants' claims recite such a method having the steps of sensing whether the subscriber units are static or mobile based on the quality of communications links with nearby fixed network devices, and enabling an acquisition protocol suited to the static mode and the mobile mode. As described in the specification, the protocol is suited for devices having both modes in order to maximize total overall performance by transitioning between a higher performance static mode and a lower speed, trimmed down mobile state. In the embodiment of claim 1, the method has an acquisition protocol that is suited for both modes, and an acquisition protocol suited to a mobile mode when in the subscriber unit is in a mobile state and suited to a static mode when the subscriber unit is in a fixed (static) state.

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Turning to the reference (**Ricard**) cited by the Examiner, such reference discloses a mobile terminal 1 that operates in either a public cellular network 2 or in one or more **separate** local cordless networks 4A, 4B, and 4C, with the cordless networks overlapping the cellular network. The purpose of the **Ricard** system is to enable the user to switch from the cellular network to one of the cordless networks (for lower subscriber costs) when the terminal is within the coverage area of the cordless network. However, to avoid the inconvenience and energy consumption resulting from continuously searching for a fixed base station in a cordless network, the system of **Ricard** does not search continuously, but rather only searches for a cordless network upon certain triggering events (e.g., upon specific activities such as retrieving email, or upon certain times of the day when the user is likely to be within range of the cordless network). Thus the structure, function and purpose of **Ricard** is clearly different and distinguishable from Applicants' invention.

Unlike **Ricard**, the subscriber units in Applicants' invention do not switch between two networks (e.g., a "static" network and a "mobile" network). Rather, in Applicants' invention, acquisition protocols permit subscriber units to switch between a static mode and mobile mode, while in the same, single wireless network.

With particular reference to Applicants' claims, **Ricard** does not teach or support a system having "subscriber units within a single wireless network", where subscriber units are in "either static or mobile modes when operating within the single network", and where fixed network devices are "located at cell sites" and communicate "with both static and mobile subscriber units within the single network", as recited in claim 1. Similar limitations are also recited in independent claims 10, 11 and 12.

Applicants' note that **Ricard** refers to a "mobile" mode and a "fixed" mode (e.g., paragraphs 0005-0011), but these terms refer to the two different kinds of networks in **Ricard** (the cellular network referred to as "mobile" and the cordless network referred to as "fixed"). **Ricard** clearly does not teach two protocols (e.g., a "mobile mode for mobile subscriber units" and a "static mode for fixed subscriber units", both protocols being used for operating "within a single wireless network", as recited in claim 1).

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Applicants note the provisional rejection for double patenting, and elect not to provide a terminal disclaimer at this time. Applicants traverse such rejection and will defer responding specifically until the time when all pending claims have been allowed. If this rejection requires immediate attention, it is respectfully requested that the Examiner telephone the undersigned.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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